



DIVISION ONE
 FILED: 12/13/2012
 RUTH A. WILLINGHAM,
 CLERK
 BY: mjt

IN THE COURT OF APPEALS
 STATE OF ARIZONA
 DIVISION ONE

ARIZONA DEPARTMENT OF ECONOMIC SECURITY,)	No. 1 CA-SA 12-0259
)	
)	DEPARTMENT A
Petitioner,)	
)	Maricopa County
v.)	Superior Court
)	No. FC2010-090018
THE HONORABLE TIMOTHY J. RYAN,)	
Judge of the SUPERIOR COURT OF)	
THE STATE OF ARIZONA, in and for)	
the County of MARICOPA,)	DECISION ORDER
)	
Respondent Judge,)	
)	
CHRISTINE P.-C., FRANK C., and)	
K.C.,)	
)	
Real Parties in Interest.)	
_____)	

The court, having considered the special action petition filed by the Arizona Department of Economic Security ("ADES"), the response by Frank C. ("Father"), and ADES's reply, as well as the appendices filed by the parties, accepts jurisdiction and grants relief in part.

ADES is the legal custodian of the minor child, K.C.¹ By order filed November 1, 2012, the juvenile court continued K.C. as a ward of the court, "committed to the care, custody and control" of ADES.

¹ We amend the caption to refer to the child by her initials.

On November 9, 2012, ADES filed a motion to intervene in the family court proceedings "for the limited purpose of addressing visitation and future custody orders for the time that ADES is the child's legal custodian." The family court denied ADES's motion.

As the child's legal custodian, ADES is entitled to intervene in the family court proceedings to be heard regarding custody and parenting time. See, e.g., Ariz. R. Fam. L.P. 33(D) ("Upon timely application, the court may allow a third party to intervene in an action if necessary for the exercise of the court's authority"). Although the language of the rule is permissive, when ADES is a child's legal custodian, as opposed to the parents, ADES should not be denied the right to be heard regarding custody and visitation orders relating to its ward.

Additionally, the record suggests the need for a more coordinated approach between the family court and the juvenile court.² Although we enter no specific orders in this regard, we note that orders of the juvenile court take precedence over those of the family court. See Ariz. Rev. Stat. § 8-202(F) (orders of the juvenile court in

² A different panel of this court recently issued a memorandum decision affirming a finding of dependency as to Father based on an earlier dependency petition alleging sexual abuse. *Frank C. v. Ariz. Dep't of Econ. Sec.*, 1 CA-JV 12-0078, 2012 WL 5208790 (Ariz. App. Oct. 23, 2012) (mem. decision). The court held that reasonable evidence supported the juvenile court's finding that Father had sexually abused K.C. *Id.* at *5, ¶ 23.

dependency cases "take precedence over any order of any other court of this state except the court of appeals and the supreme court").

We grant relief to ADES, in part, by directing the family court to permit ADES to intervene in its proceedings. We also continue our stay order in effect, restricting Father to supervised visitation with K.C., until ADES has been allowed to intervene and the court holds further proceedings regarding custody and visitation at which ADES is present.

IT IS FURTHER ORDERED that, in addition to the usual mailings, a copy of this order shall be sent to the Honorable James Beene.

/s/
MARGARET H. DOWNIE, Judge

CONCURRING:

/s/
JOHN C. GEMMILL, Presiding Judge

/s/
LAWRENCE F. WINTHROP, Chief Judge